

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

UNITED STATES OF AMERICA §
§
VS. § CRIMINAL NO. G-05-07
§ CIVIL ACTION NO. G-06-797
KENTE AMIN ANTHONY §

OPINION AND ORDER

On December 21, 2006, Kente Amin Anthony, the Defendant in the above-styled and numbered cause, filed a “ Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody.” Without reciting the lengthy history of this case, the Court notes that Anthony previously filed an identical § 2255 Motion which was dismissed on October 23, 2006. Anthony did not appeal the Final Judgment.

The instant Motion is obviously successive. Accordingly, under 28 U.S.C. § 2244(b)(3), Anthony must file a motion seeking the permission of a three-judge panel of the United States Court of Appeals for the Fifth Circuit to file a successive petition, which must be granted or denied within 30 days under § 2244(b)(3)(B). Unless or until the Court of Appeals authorizes the filing of Anthony’ s new § 2255 Motion, this Court has no jurisdiction to consider same. See Hooker v. Sivley, 187 F.3d 680, 681-82 (5th Cir. 1999)

It is, therefore, **ORDERED** that the “ Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody” (Instrument no. 53) of Kente Amin Anthony, is **DISMISSED for lack of jurisdiction.**

DONE at Galveston, Texas, this 10th day of January, 2007.


Samuel B. Kent
United States District Judge